

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

GARRY E. PRESLEY,

Plaintiff,

V.

**CAROLYN W. COLVIN, Commissioner
of Social Security Administration,**

Defendant.

CIVIL ACTION NO. 5:13-CV-123 (MTT)

ORDER

This matter is before the Court on the Recommendation of United States Magistrate Judge Charles H. Weigle. (Doc. 10). The Magistrate Judge, having reviewed the case pursuant to 28 U.S.C. § 636 and 42 U.S.C. § 405(g), recommends affirming the decision of the Commissioner because the Administrative Law Judge's findings were supported by substantial evidence and based on proper legal standards. The Magistrate Judge further recommends denying the Plaintiff's request for remand based on additional medical evidence because the Plaintiff failed to establish good cause for his failure to submit this evidence at the administrative level. The Plaintiff has objected to the Recommendation. (Doc. 11). Specifically, the Plaintiff objects to the Magistrate Judge's findings that the ALJ properly considered the opinion of consultative examiner, Dr. Reddy, and that the additional medical evidence does not warrant remand.

Contrary to the Plaintiff's assertions, the ALJ appropriately discounted Dr. Reddy's opinion based on his one-time examination of the Plaintiff and the

inconsistency of Dr. Reddy's opinion with other evidence in the record. Regarding the additional medical evidence, the Plaintiff states there is "apparent confusion" regarding what evidence the Plaintiff claims is new and material. (Doc. 11 at 4). Perhaps so. Citing to Doc. 4-8 at 68-84, the Plaintiff asserts that he timely and properly submitted additional evidence to the Appeals Council. However, this is not the evidence the Plaintiff argues is new and material. (See Docs. 6 at 9-11; 7 at 1-25). Further, if this evidence were timely submitted to the Appeals Council, as the Plaintiff claims, it would not be new evidence pursuant to 42 U.S.C. § 405(g). The Plaintiff does not argue any other basis to show good cause for his failure to submit the additional evidence at the administrative level.

The Court has thoroughly considered the Plaintiff's objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects. Accordingly, the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is adopted and made the order of this Court. The decision of the Commissioner is **AFFIRMED**.

SO ORDERED, this 19th day of August, 2014.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT